

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:13-cr-00087-MOC

UNITED STATES OF AMERICA,

Vs.

JAMES ISAAC DRAYTON,

Defendant.

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ORDER

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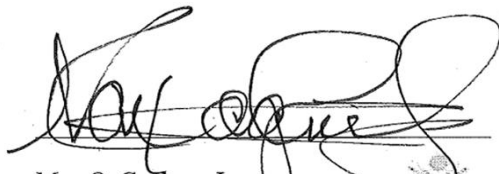
**THIS MATTER** is before the court on defendant's pro se Motion to Withdraw Plea. Inasmuch as this motion has been made after acceptance of the plea but before sentencing, it is defendant's burden to "show a fair and just reason for requesting the withdrawal." Fed.R.Crim.P. 11(d)(2)(B). Here, defendant has made the conclusory allegations that his attorney was ineffective and "unethical misconduct of the prosecutor." Motion (#29) at 1. Defendant fails to provide the particulars of his contentions; however, the court notes that the motion comes soon on the heels of the draft PSR, which contains a sentence projection based on an offense level which defendant agreed to as part of his plea. Defendant is advised to carefully consider his accusations as it appears from the face of the accepted plea agreement that counsel was *highly effective* in limiting his total offense level, which could have certainly been higher based on the stipulated facts surrounding the offense conduct, especially as to count one.

The court will, therefore, deny the request without prejudice as to defendant raising such concerns at the beginning of the sentencing hearing. Having considered defendant's pro se motion and reviewed the pleadings, the court enters the following Order.

**ORDER**

**IT IS, THEREFORE, ORDERED** that defendant's pro se Motion to Withdraw Plea (#29) is **DENIED** without prejudice and the court will consider any such request at the start of sentencing hearing if so requested.

Signed: 5/16/2014



Max O. Cogburn Jr.  
United States District Judge